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Louisiana Revised Statutes of 1950

*Dale E. Bennett**

The Louisiana Revised Statutes of 1950 were long overdue. The general laws of the state had not been revised since 1870. In the intervening eighty years, Louisiana's statutes accumulated at a prodigious rate and with little rhyme or reason. As a result, there were more than twelve thousand separate and un repealed statutes on the books. Frequently a failure specifically to repeal inconsistent prior legislation, or to integrate the new with the old, resulted in serious problems of interpretation. Often several statutes upon the same subject emanated from a single legislative session. Conversely, in some neglected areas the 1870 statutory provisions remained unchanged, despite their patent obsolescence. In addition, the statute books were replete with acts which had been declared unconstitutional or superseded by subsequent constitutional provisions. In some instances a general overriding statute would strike across the entire framework of the law, as did the Fiscal Code and its successor, the 1948 general fiscal statute. While such general laws superseded innumerable special provisions in other statutes, a repeal or amendment of those special provisions was not feasible. As a result the special provisions were misleading unless one were familiar with the general law affecting them. Many statutes were clumsily phrased and hastily drafted. It was not uncommon to find a sentence approximately a page long or a single section embodying several distinct principles or rules. Such provisions were confusing in their application and difficult to amend. The object of the revision was to remedy these defects and to rearrange and clarify Louisiana's general statute law.¹

At the outset it is important to understand that the Louisiana Revised Statutes of 1950 do not represent new law. Rather, they represent a restatement of the existing general laws, without

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1. The Louisiana legislature by Act 42 of 1942 directed the Louisiana State Law Institute to "prepare a comprehensive revision of the statutes of the State of a general character, including those contained within the revision of 1870, to simplify their language, to correct their incongruities, to supply their deficiencies, to arrange them in order, the sections thereof being numbered so as to provide for additions and amendments, and to reduce them to one connected text. . . ."

substantive change, but rewritten according to a clear and logical pattern.² The pruning away of obsolete, unconstitutional and superseded provisions has done much to reduce the volume of the statute law. The reorganization and clarification should serve to make the law a better working tool for lawyer and layman alike. As in the case of every comprehensive new enactment, there will be a short period of adjustment while those using the statutes familiarize themselves with the new organization and pattern. To this end, a brief resumé of some of the significant features of the Revised Statutes of 1950 is appropriate.

GENERAL PROVISIONS—INTERPRETATION

The importance of the General Provisions in Title 1 cannot be overemphasized, and Chapter 1 of this title should be carefully studied.³ The sections therein provide necessary and valuable guides to the interpretation and applicability of the Revised Statutes. Section 1 provides the official short method of citation. It should do much to simplify the task of those who are called upon to refer to the various sections of the revision, whether it be in judicial opinion, lawyer's brief, or cross-references in drafting statutes. A familiarity with the maxims of interpretation, stated in Sections 2 through 10, should serve to avoid technical constructions which might otherwise defeat the intended purpose and applicability of a particular provision. Sections 12 and 13 announce the rule that the classification and organization of the Revised Statutes and the headnotes provided for the various sections are purely "for the purpose of convenient reference," and are not at all intended to govern the construction of the provisions to which they are appended. The section headings will serve as a helpful guide in the use of the Revised Statutes, and Section 13

2. The nature of the revision is epitomized by the general policy stated by the Council, and affirmed by the Law Institute membership at its May, 1947, meeting:

"The Revision is *not to be a mere compilation* of existing laws. *Neither is it to embody policy changes* in the substance of the law. Existing laws are to be worked into a consistent and logical pattern. Obsolete provisions are to be deleted, but only after a careful check as to any possible utility. Incongruities are to be resolved, but only after a careful analysis of the statutes involved and with a conscientious effort to effectuate the true legislative intent. The Revision will attempt, in many instances, to bring some semblance of order out of chaos; but it will not pattern that order upon the Reporters' or Council's concept of what the substantive law should be."

3. These provisions were drafted by the assistant coordinators, Milton M. Harrison and Carlos E. Lazarus.

will guard against the possibility that any inaccuracy in those headings might be urged as a limitation upon the sections.

Probably the most important single section in the entire revision is Section 16 of Title 1. Section 16 clearly defines the nature of the revision when it declares that, "The Louisiana Revised Statutes of 1950 shall be construed as continuations of and substitutes for the laws or parts of laws which are revised and consolidated herein."⁴ This means that the provisions of the Revised Statutes are not to be treated as new laws.⁵ The existing laws have been carried over into the revision with only such adjustments as were necessary to organize and clarify them and to delete those provisions which were clearly incongruous, obsolete or superseded.⁶ In order that the revision would accomplish its purpose of reducing Louisiana's general laws to one connected text, and to avoid the confusion resulting from duplicate provisions on the statute books, the Council of the Law Institute deemed it advisable to repeal specifically the original statutes, the provisions of which were continued in existence through the Louisiana Revised Statutes of 1950. It is the nature of the revision, as emphasized by Section 16, that the existing laws are reorganized and carried forward in the revision. Then, as an incident to such incorporation, and since they will have no future separate applicability, the original statutes are expressly repealed by the revision statute. Out of abundant caution, and to be sure that all rights acquired, penalties incurred, proceedings begun, et cetera, under the original statutes, prior to the effective date of the Revised Statutes (May 1, 1950), would be unaffected by the incidental repeal of the statutes included in the revision, the Council added a special saving clause to Section 16.⁷

4. In addition, Section 16 provides, "The adoption of these Revised Statutes shall not affect the continued existence and operation, subject to the provisions hereof, of any department, agency, or office heretofore legally established or held, nor any acts done, any funds established, any rights acquired or accruing, any taxes or other charges incurred or imposed, any penalties incurred or imposed, or any judicial proceedings had or commenced prior to the effective date of these Revised Statutes."

5. This is the usual rule pertaining to statutory provisions. *State v. Prouty*, 115 Iowa 657, 84 N.W. 670 (1900).

6. See n. 1, *supra*.

7. This saving clause was prepared after a careful study of the whole problem involved, and the language employed was carefully analyzed by the Council of the Law Institute. It has been generally held that the adoption of a revision statute does not affect the continued existence of rights and liabilities incurred under the statutes incorporated therein, and the saving clause in Section 16 makes it doubly clear that this construction is intended by

This saving clause, by expressly stipulating that the Revised Statutes "shall be construed as continuations of and as substitutes for" the statutes incorporated therein, also serves to make it clear that the provisions carried over into the revision are subject to the same judicial interpretation which they were formerly accorded. Thus the wealth of prior jurisprudence construing Louisiana's general statutes is preserved. This is true even though the revision has frequently made stylistic changes in the language of the statutes. For example, wherever practicable, civil law terminology has been substituted for common law language. Cumbersome and obscure sentences have been reworked and reworded. In all of these instances it is obvious that the changes in language were solely for the purpose of clarification, and that no change in meaning was intended.

A different situation, however, is presented by those chapters or parts of the revision where it was necessary to reconcile conflicting and overlapping laws. In these cases the revision sought to give effect to the latest legislative enactment and also to preserve those provisions of the earlier laws which were not in conflict or impliedly superseded. Sometimes the pattern had been fixed by decisions of the Louisiana Supreme Court. Where such judicial guides were unavailable, the reconciliation was made after a careful analysis of the statutes involved and after checking with state departments and other groups with a special knowledge as to their practical application. All such decisions were carefully and conscientiously arrived at, and a constant effort was made to weave the heterogeneous mass of enactments of the past eighty years into a clear and logical pattern. It is significant that these new provisions of the Louisiana Revised Statutes were regularly enacted as the general law of the state, and not as *prima facie* evidence of the law. As the original statutes were expressly repealed, to permit reference to them in contradiction of provisions of the Revised Statutes would inject an uncertainty into the law which it was the very purpose of the revision to eliminate. In short, prior jurisprudence and legislative history is still available to aid in *interpreting* the provisions of the Revised Statutes; but prior legislation should not be resorted to as a means of *contradicting* or confusing the meaning of those provisions.

It will be noted that Title I does not include a general def-

initions chapter or section. Most definitions were found to be subject to specific limitations and variations as applied in the different titles of the revision. It was only practicable, therefore, to provide definitions which were applicable throughout a title. In some cases a series of definitions is limited to a particular chapter in a title. In this way the definitions are found with the material to which they relate and are more complete than if they were of more general application.

Chapter 2 of the first title includes a number of miscellaneous general provisions. It is noteworthy that the section on legal holidays⁸ combines the provisions of eleven separate statutes establishing the various state holidays. This is a good example of the type of combination and coordination which has been effected throughout the revision.

ANALYSIS OF REVISION TITLES

Space limitations do not permit a detailed review and analysis of the Revised Statutes. However, a brief analysis of parts of some of the more important titles may serve to illustrate the nature of the revision and to call attention to some of their significant features. Title 3, *Agriculture and Animals*,⁹ required the consolidating and redrafting of a large number of conflicting, duplicate and obsolete provisions. Chapter 1 is a redraft and rearrangement of the statutes providing for the creation, organization, and administration of the Department of Agriculture and Immigration. The provisions of these statutes were harmonized with one another and with subsequent constitutional requirements. Laws establishing the various experiment stations were consolidated in Chapter 8. This consolidation made possible the exclusion of a large amount of duplication and provided an orderly arrangement of this material. Provisions deleted as obsolete included a special 1908 statute providing for rural education. This work is now entirely handled by the Agricultural Extension Division of the Louisiana State University and Agricultural and Mechanical College. Similarly, an old revised statute provision for a New Orleans Board of Tobacco Inspection was deleted when the secretary of state's records, beginning in 1882, showed that no such board had ever been appointed.

A problem of reconciling dual statutory enactments was

8. La. R.S. (1950) 1:55.

9. Reporter, Milton M. Harrison, Assistant Professor of Law, Louisiana State University.

encountered in Title 6, *Banks and Banking*,¹⁰ where two overlapping statutes applied to the organization of state banks.¹¹ Subsequent amendments to these statutes had added to the confusion. As a result of these conflicts it was necessary to incorporate state banks under both statutes and difficult questions frequently were presented as to the applicability of the provisions of each. The coordination of these statutes in Chapters 3 and 4 of Title 6 should greatly simplify the law. In the banking title a considerable number of obsolete and superseded provisions of the old Revised Statutes of 1870 were deleted. Some had been superseded by federal law. Others had been superseded but not specifically repealed by more recent state banking statutes.

The first chapter of Title 7, *Bills and Notes*, is the Uniform Negotiable Instruments Law as amended.¹² As was the case in every instance where a basic and much used general statute was incorporated in the revision, the Negotiable Instruments Law was placed as Chapter 1 in the title. In this way the original section numbers which have become well known remain unchanged, enabling the bar to continue familiar methods of citation. No changes were made in the language of this act, since almost every word has been the subject of judicial interpretation. Chapter 2 of the title embraces a number of independent and supplemental statutes relative to non-negotiable instruments, bills of exchange, and promissory notes.

Similarly, the first chapter of Title 12, *Corporations and Associations*,¹³ is the Business Corporations Act of 1928.¹⁴ Here again the section numbering of the act is maintained without change. Chapter 2 is the Non-Profit Corporation Act, which had been enacted in 1948.¹⁵ Such matters as foreign corporations, stock transfers, receivers and liquidation are covered in subsequent chapters of the title. As a result the businessman or attorney who is interested in the organization or operation of a corporate activity may now find all pertinent statutory material assembled and available.

10. Reporter, for Titles 6 and 7, James Bugea, Professor of Law, Loyola University.

11. La. Acts 45 and 179 of 1902.

12. La. Act 64 of 1904.

13. Reporter, John Minor Wisdom, Member, New Orleans Bar.

14. La. Act 250 of 1928.

15. La. Act 455 of 1948, drafted and submitted by the Louisiana Law Institute.

Title 9, *Civil Code Ancillaries*,¹⁶ represents one of the most significant organizational contributions of the Revised Statutes. Many statutes relating directly to the Louisiana Civil Code of 1870 had been enacted independently rather than as amendments to the appropriate code articles. Title 9 embraces all these general laws, arranged according to Civil Code titles so as to be readily usable in connection with the code articles which they affect. This should simplify the problem of comprehensive research in Civil Code matters. Also, future amendments can be drafted in terms of the *Civil Code Ancillaries* title, thus minimizing the danger of conflicting enactments. The handling of the various married women's emancipatory statutes, under the code heading "Married Women," is a good illustration of the consolidation of overlapping statutes.¹⁷ Laws dealing with partnerships, a matter almost entirely covered by the Civil Code, are appropriately assembled in this title.¹⁸ The Trust Estates Act¹⁹ and acts relative to trusts for public purposes are placed under the Civil Code heading "Of Donations Inter Vivos and Mortis Causa."²⁰ All general statutes relative to succession procedure and the administration of successions are under the Civil Code heading "Of Successions."

Title 13, *Courts and Judicial Procedure*,²¹ is another comprehensive and important title. It contains all the materials concerned with the various courts throughout the state, their composition, and employees. Also included in this title are many statutes relating to procedure before these courts. Much of the statutory material dealing with courts and procedure was duplicated in the Code of Practice or the Civil Code. A number of other statutes had been superseded by constitutional provisions or had become obsolete due to subsequent legislation. Thus the reporter for Title 13 was confronted with the task of eliminating the duplicated, superseded and obsolete material, and then reorganizing the remaining statutes. One chapter in the title is devoted to each class of courts, containing provisions

16. Reporter, Harriet S. Daggett, Professor of Law, Louisiana State University. Work on this title was greatly facilitated by use of "Louisiana Statutes Related to the Civil Code," published in 1942 by the Louisiana State Law Institute, with Mrs. Daggett serving as the reporter.

17. La. R.S. (1950) 9:101-105.

18. La. R.S. (1950) 9:3401-3406.

19. La. Act 81 of 1938.

20. La. R.S. (1950) 9:1791-2212.

21. Reporter, Dean H. G. McMahon, Louisiana State University Law School.

as to the composition of the court, its session and docket, and its various employees such as clerks, recorders, criers and secretaries. These chapters²² begin with the supreme court and end with the city and municipal courts. The following chapters relate generally to juries, procedure, jurisdiction, parties, process, pleading, and the like. As in *Civil Code Ancillaries*, one of the important contributions of Title 13 is the organization of the procedural material in such a way that it is readily usable as an adjunct to the Code of Practice.

The Louisiana Criminal Code of 1942 was inserted intact as Chapter 1 of Title 14, *Criminal Law*.²³ No change was made in the definitions of or penalties for any of the crimes. Here again, as was the case in other important statutes, the Criminal Code was placed as Chapter 1 of the *Criminal Law* title. In that way the identity and numbering of the articles of the Criminal Code, which had come to be recognized and cited as such by the judiciary and the bar, was fully preserved. In view of the fact that the Criminal Code was lifted bodily and placed in the revision without change, a dual method of citation was provided for in Section 1. The articles of the Criminal Code may either be cited as "Art. — of the Louisiana Criminal Code" or according to the usual method of citation for sections of the Revised Statutes. Chapter 2 of the *Criminal Law* title embraces those miscellaneous offenses which are not covered by the Criminal Code. These offenses are arranged according to four general categories, that is, Offenses Against Property, Offenses Affecting Public Morals, Offenses Affecting the Public Generally, and Offenses Affecting Organized Government. Some of these miscellaneous criminal provisions were re-drafted for clarity, and the general procedure was followed of stating the penalty clauses in a form similar to the form of penalty clauses used in the Criminal Code. No changes, however, were made in the nature of any of the crimes nor in the penalty provided for violation. In a number of instances special criminal provisions, which were clearly and fully covered by an article of the Criminal Code, were deleted.

The 1928 Code of Criminal Procedure was inserted as Chapter 1 of Title 15, *Criminal Procedure*, and here too the article numbers were retained unchanged. An important improvement

22. Chapters 2 through 8.

23. Reporter for Titles 14 and 15, Leon Hubert, Professor of Law, Tulane University.

is effected by the integration in Chapter 1 of a considerable number of effective rules of criminal procedure which were formerly found outside of the general Code of Criminal Procedure. One seeking the Louisiana rules of procedure could not look to the Code of Criminal Procedure for a single body of adjective law, but also was required to examine a number of ancillary procedural enactments, including those miscellaneous provisions of the Revised Statutes of 1870 which had not been squarely superseded by the 1928 Code. For example, while the Code of Criminal Procedure provided generally for the rights of the defendant, an unrepealed section of the Revised Statutes of 1870 gave him the additional right to be served with a copy of the indictment and the jury list.²⁴ Similarly, a number of presently effective provisions dealing with sentencing of offenders were in the old Revised Statutes of 1870 and other enactments prior to the Code of Criminal Procedure.²⁵ This situation necessarily made for confusion. As a result of the integration of these miscellaneous procedural provisions with the 1928 Code of Criminal Procedure, all rules concerning indictments, trial, verdict, sentencing, and appeal are now logically arranged in one chapter. In some cases the new material was added to the original articles or sections dealing with that subject matter as an additional paragraph. In other instances it was added as a completely new section with a decimal number used in order to avoid disturbing the present numbering. In a preliminary provision,²⁶ placed at the beginning of the chapter, a dual method of citation is provided for, as is done in the case of the Criminal Code. Another preliminary provision declares that "in matters of criminal procedure where there is no express law the common law rules of procedure shall prevail."²⁷ This provision is merely a restatement of the existing law. Chapter 2 includes the laws regulating prisons and correctional institutions. Some of these provisions date back to the Revised Statutes of 1870. In other instances they represent a consolidation of rather recent statutory enactments. In this part a number of obsolete provisions were deleted.

Title 17, *Education*,²⁸ is one of the bulkiest in the revision.

24. See Comment, 6 Tulane L. Rev. 135 (1931).

25. For the present placement of these sections see La. R.S. (1950) 15:529.3-529.10.

26. La. R.S. (1950) 15:0.1.

27. La. R.S. (1950) 15:0.2.

28. Reporter, Carlos E. Lazarus, now Coordinator of Research, Louisiana State Law Institute.

It contains all the material relating to the State Board of Education, parish school boards, public schools and school children, teachers and teachers retirement systems, the Louisiana State University and Agricultural and Mechanical College, and other state colleges and universities. Here again were a mass of statutes originally drafted in a disorderly fashion and further confused by numerous subsequent amendments. For example, the basic statute governing the State Board of Education and the parish school boards²⁹ also included general provisions pertaining to education. The sixty-odd sections which composed this statute were inadequately arranged, with the result that provisions applicable to the State Board of Education, the department of education, parish school boards, teachers, et cetera, were indiscriminately scattered throughout. Subsequent statutes materially altered or superseded some of the provisions of the basic 1922 act. Where the provisions of the 1922 act were altered by subsequent legislation or constitutional provisions, the revision reflects such changes.³⁰ Where provisions were superseded by subsequent legislation, they were deleted accordingly.³¹ The statute governing the Louisiana State University and Agricultural and Mechanical College was incorporated without change as Chapter 4 of the title. However, statutes establishing the other state colleges were omitted from the revision and treated as special in nature. The majority of these colleges were created prior to 1921 under acts providing for their governing bodies. These colleges are now directly under the supervision and control of the State Board of Education,³² and hence all but the sections creating these institutions have become obsolete. The provisions for the administration of these colleges by the State Board of Education are included in Chapter 1 of the title,³³ but the original statutes providing for their establishment are not repealed. The

29. La. Act 100 of 1922.

30. Section 2 of Act 100 of 1922 provided that the State Superintendent of Education should be elected by the Board of Education for a four year term. This provision was reworded to conform with the Constitution (Art. XII, § 5) which provides that the superintendent of education shall be elected by the people.

31. Section 25 of Act 100 of 1922 authorized parish school boards to purchase school books and other school supplies, and to sell them to the parents of school children at cost under the supervision of the Board of Education. This provision was inconsistent with Act 100 of 1928 and Act 155 of 1936 providing for free school books and supplies for school children. Accordingly, it was deleted.

32. See La. Const. of 1921, Art. XII, § 9; La. Act 100 of 1922, § 6.

33. La. R.S. (1950) 17:10.

same procedure was followed as to those institutions established subsequent to 1921.

The first chapter and major portion of Title 22, *Insurance*,³⁴ is the Insurance Code which was adopted in 1948.³⁵ This code, a recently prepared and comprehensive statute, was incorporated in the Revised Statutes without making any change except the correction of a few typographical errors discovered since its enactment. The second chapter of this title contains those miscellaneous laws relating to insurance not included in the Insurance Code, but which were not expressly or impliedly repealed. Only those laws which were found to have actual present utility are included.

Title 23, *Labor and Workmen's Compensation*,³⁶ is comprised of laws pertaining to the Department of Labor, employment of minors and women, apprentices, labor organizations, workmen's compensation, unemployment compensation, and related matters. Chapter 1 contains the provisions of Act 130 of 1936, which established the Department of Labor and prescribed its powers and duties. Chapter 2 regulates the employment of minors and women. In this regard it is important to note that apparently the first general statute passed on the subject was Act 301 of 1908, which in substance prohibited the employment of minors under fourteen years of age in certain enumerated occupations, and established the maximum hours of work for women and minors under eighteen years of age employed in those occupations. Provision was also made in this act for sanitation and safety regulations. This statute originally was applicable to both minors and women. Subsequent amendments to the 1908 statute restricted its application to the employment of minors under eighteen years of age in any gainful occupation. Because of the new enactments and amendments, it was necessary to eliminate from the 1908 statute all those provisions which became inapplicable. In general, all laws dealing with women and minors are classified and correlated in such a way as to simplify their use and interpretation. Perhaps the greatest improvement effected in Title 23 is Chapter 10, dealing with workmen's compensation. The practice of amending the Workmen's Compensation Act³⁷ by adding sections at the end had impaired the orderly

34. Reporter, A. E. Papale, Professor of Law, Loyola University.

35. La. Act 195 of 1948. For a discussion and analysis of the 1948 Insurance Code see Louisiana Legislation of 1948, 9 LOUISIANA LAW REVIEW 82 (1948).

36. Reporter, Carlos E. Lazarus, Louisiana State Law Institute.

37. La. Act 20 of 1914.

sequence of the sections and a complete rearrangement was advisable. Thus it was not possible to maintain the section numbering, as was done in the Corporation Act, the Negotiable Instruments Law, and other general statutes which did not present the same need for reorganization. Many involved and frequently amended sections of the statute were subdivided into short and concise sections under appropriate headings. A definition section, containing all the definitions which had previously been scattered throughout the act, was adopted. At the same time great care was exercised to avoid any substantive changes in the law. The simplicity and advantage of this new arrangement should outweigh any disadvantages resulting from the changes in the numbering of the various sections. The Unemployment Compensation Act³⁸ was placed in Chapter 11 without any change except the necessary rearrangement of the order of some provisions.

Title 26, *Liquors and Alcoholic Beverages*,³⁹ is a consolidation and reorganization of three basic general statutes regulating the sale, control, and taxation of alcoholic drinks. In 1933, shortly after the repeal of the federal prohibition laws, the Louisiana legislature enacted a statute controlling and taxing the sale of beer.⁴⁰ In 1934, a statute was enacted for the purpose of regulating the sale of liquors of more than six per cent alcoholic content.⁴¹ The latest legislation on the subject was a 1948 statute creating the Board of Alcoholic Beverages Control,⁴² which superseded much of the 1934 act. The provisions of the 1948 statute are rearranged and included as Chapter 1, entitled Alcoholic Beverage Control Law. The provisions of the 1933 beer statute, as frequently amended, are found in Chapter 2 of this title. The title also contains the various statutes governing local option provisions, and municipal and parochial authority to regulate, license, and tax the sale of alcoholic liquors and beverages.

Title 30, *Minerals, Oil and Gas*,⁴³ covers regulation of the state's mineral resources. Chapter 1 sets out the laws establishing the Department of Conservation and the powers granted to it with relation to the administration of rules for the conserva-

38. La. Act 97 of 1936 as amended.

39. Reporter, A. E. Papale, Professor of Law, Loyola University.

40. La. Act 2 of 1933 (E.S.).

41. La. Act 15 of 1934.

42. La. Act 360 of 1948.

43. Reporter, Harriet S. Daggett, Professor of Law, Louisiana State University.

tion of oil and gas, as well as other mineral resources. Chapter 2 is comprised of those statutes governing leases of mineral rights generally, and leases by the state or its political subdivisions. Although some of the original provisions are reorganized and reworded, no substantive changes were made and language which has been the basis of judicial interpretation is kept meticulously intact.

The organization of the material of Title 33, *Municipalities and Parishes*,⁴⁴ presented a particularly difficult problem because of the large number of statutes involved. One of the most significant improvements is the integration in Part 2 of Chapter 2 of the provisions of the acts of 1910,⁴⁵ 1912,⁴⁶ and 1934⁴⁷ providing for the commission form of government. While these three statutes were for the most part identical, there were some differences in their provisions. In the consolidation the provisions of the 1934 act were followed in all cases of conflict. A few provisions in the 1910 statute were not covered by the 1934 act and were retained. All provisions of the 1912 act were eliminated as superseded legislation. This reorganization of the material dealing with the commission form of government should lay at rest the recurring problem as to what provisions of the earlier statutes might still be effective despite the overall coverage of the 1934 act.

Title 38, *Public Contracts, Works and Improvements*,⁴⁸ includes the Department of Public Works, public contracts, flood control, levees, drainage, and levee and drainage districts. Chapter 1, Department of Public Works, is based upon the 1942 statute⁴⁹ which established that department and rendered inoperative certain earlier statutes creating various boards or agencies. For example, the functions of the State Board of Engineers had been transferred to the Department of Public Works. The statute⁵⁰ establishing that board was accordingly omitted from the revision. The inclusion of the statutes creating levee and drainage districts in this title constitutes somewhat of a departure from the general rule that statutes of a special and localized applicability should be omitted from the revision. The Council of the Law Institute gave much thought to this and finally decided that these materi-

44. Reporter, Dorothy Dowling Wolbrette, Member, New Orleans Bar.

45. La. Act 302 of 1910.

46. La. Act 207 of 1912.

47. La. Act 13 of 1934 (3 E.S.).

48. Reporter, Leon Hubert, Professor of Law, Tulane University.

49. La. Act 2 of 1942.

50. Defined by La. Act 240 of 1940, § 1.

als should be included because of their general importance to the practicing attorney.

Title 39, *Public Finance*,⁵¹ embraces the laws dealing with the financial structure of the state and its local subdivisions. These are arranged under two main topics, State Finance and Local Finance. The provisions on local finance were placed in this title, rather than in Title 33, in order that all fiscal provisions might be found in a single title of the revision.

Title 45, *Public Utilities and Carriers*,⁵² includes a special chapter for each basic public utility. Those statutory provisions applicable to all utilities or to more than one special utility are placed in a separate chapter at the end of the title. This chapter, which comprises approximately half of the title, covers the public service commission, public ownership of utilities, bills of lading, and general regulations applying to several utilities.

Title 47, *Revenue and Taxation*,⁵³ is a very important title. While signal improvements were made in the arrangement of the law, special care was taken that the tax burden should remain strictly unchanged. In the preparation of this title extensive use was made of the projet of a revenue code prepared by the Revenue Code Commission and submitted to the legislature in 1948. The basic draft of this projet was, in fact, a revision and clarification of all existing revenue laws, without any substantive change. In preparing this basic draft the Revenue Code Commission used the Law Institute's revised statutes plant and followed the same basic policy of reorganization without change which was followed in the revision. By the use of this projet the reporter for Title 47 was able to take advantage of the expert drafting and research which characterized the work of the Code Commission.⁵⁴ Sum-

51. Reporter, Joseph Dainow, Professor of Law, Louisiana State University.

52. Reporter, John J. McAulay, Professor of Law, Loyola University.

53. Reporter, Carlos E. Lazarus, who worked very closely with Mr. Lamar Miller, Secretary of the Revenue Code Commission and Attorney for the Louisiana Department of Revenue and with Mr. Stephen Rodi, Attorney for the Revenue Department.

54. The Revenue Code Commission had made various recommendations for specific changes in the tax laws. These changes were, of course, not incorporated in the revision. However, the 1948 legislature adopted many of the less controversial changes suggested by the Revenue Code Commission and these, already being effective law, were integrated in appropriate places in Title 47. Also the basic draft of the Revenue Code Commission's work was necessarily adjusted to the organization of the materials in other titles of the Revised Statutes. This meant that in some instances material in the proposed Revenue Code is in other titles rather than in Title 47. For example, the collection of revenue upon alcoholic beverages, which was in the Revenue Code, is in Chapter 2 of Title 26, *Liquors—Alcoholic Beverages*.

marizing briefly, Title 47 constitutes a complete and careful reorganization of the basic tax and revenue laws of the state. There is a special chapter on general tax procedures, which eliminates the former necessity of specifically setting out the tax procedure in each law. At the same time it is significant that the tax burden of no one is changed and the measures of taxability remain unaltered.

STATUTES AMENDING THE REVISION OR ADDING NEW MATERIAL

The drafting of amending statutes has been greatly simplified by the revision. First, the draftsman who seeks to make a change in the law will now find all relevant statutory provisions assembled in an orderly pattern. By a brief study of those materials he should be able to ascertain which sections, parts or chapters are to be changed or supplemented. This procedure should be far superior to the ante-revision practice where the draftsman would merely enact a law, without adjusting that law to existing statutes and leaving it entirely up to future court decisions to indicate the line of demarcation between the new and the old.

Second, the drafting of titles to amending statutes is clearly simplified. Anyone familiar with statutory drafting realizes the complicated problem that was frequently presented where a previously much-amended statute was to be again amended and reenacted. The drafting of the title clause was frequently as difficult and more complicated than the drafting of the statute itself. In amending the new Revised Statutes, the title to the amending act need merely designate the section or sections to be amended. Such designation can be very briefly stated, and, while this is not essential if the amendment is germane to the subject matter of the original section, it is recommended out of an abundance of caution and as a courtesy to the legislature that the title briefly indicate what the section deals with and the nature of the amendment.

Third, the form of the revision has greatly facilitated the actual drafting of amending statutes. Prior to the revision many important statutes had been drafted with long sections involving several major rules of law. Since these sections were not divided in any way, an amendment of one of the matters covered in the section necessitated a complete reenactment of the section. This

frequently resulted in the inadvertent change in or omission of a clause or sentence which was meant to remain intact. Also, if a section was generally acceptable, the proponents of a change would not risk throwing the whole section before the legislature for possible reconsideration. They would, therefore, propose the change by an independent statute, rather than by the orderly method of amending the existing law. The revision has, wherever possible, broken the statutory material into small sections with each embodying a single idea, and has further subdivided sections by specific designation of subsection and clauses. It is now possible, by amending one of the small sections or subsections of the revision, to propose a small change without the dangers which were inherent in the amendment and reenactment of a large and involved section. Many short amending statutes enacted by the 1950 legislature bear testimonial to this advantage of the revision.

Fourth, while most statutes are amendments of existing laws, a few add completely new material. Blank section numbers are left at the end of each chapter, part or sub-part, thus providing space and open section numbers for the insertion of new materials. Wherever possible, these blank section numbers should be used. In some cases, however, the new provision can best be placed between two consecutive existing sections. Where this is done, the new material should be designated by decimal numbers, that is, Sections 28.1 and 28.2 would come between Sections 28 and 29. Usually the draftsman, by a careful study of the title and chapter where his material is to be located, can assign proper Revised Statutes title and section numbers in the bill proposing the statute. Where the draftsman of a bill is uncertain, however, as to the placement of new material, it is best not to assign Revised Statutes section numbers, leaving the task of placement and coordination to be handled in the process of continuous revision. The Louisiana State Law Institute has prepared a pamphlet suggesting forms to be followed in bills amending existing sections or adding new sections to the Revised Statutes. This pamphlet, which is obtainable from the office of the secretary of state, should be of substantial assistance to the draftsman and its use should assist measurably in promoting proper style and uniformity in the drafting of new statutes.

CONTINUOUS REVISION

Chapter 5 of Title 24, *Legislation and Laws*, provides for a

continuous revision of the statutes and is based upon the obviously sound principle that once revised the general statute law should be kept currently up to date. This chapter is the only new matter incorporated in the Revised Statutes, but it is strictly incidental to the revision itself and similar continuous revision procedures have been established in connection with other recent general revisions. The Louisiana State Law Institute, charged with the duty of continuous revision, is to incorporate new legislation into the Revised Statutes according to a procedure which is fully set out in this chapter. Where the draftsman of a new statute merely provides for its enactment as a law, without purporting to place it in the revision or to assign it revision section numbers, it is the function of the Law Institute to assign section numbers and to integrate the new material into the Revised Statutes. These integrated provisions, unlike the provisions which are originally enacted as sections of the revision, are expressly declared to be only "prima facie evidence of the law contained therein."⁵⁵ This means that if any inadvertent changes should result from the continuous revision process the acts as originally adopted by the legislature will be controlling.

It is significant that, of the general statutes enacted at the regular 1950 session of the legislature, more than ninety per cent had already been integrated in the revision by the draftsmen of those bills. In most cases amending statutes were specifically adopted as amendments and reenactments of specific sections of the revision, and where new material was enacted it was placed in a specific chapter or part of the revision and assigned available blank section numbers. In these cases the integrity of the Revised Statutes was already preserved and the continuous revision process merely entailed the addition of section headings for convenient reference purposes. Where, however, the new legislation was not placed in the revision, either because the draftsman was doubtful as to its placement or because of oversight, integration by the continuous revision procedures served to maintain the logical pattern and organization of the law.

CONCLUSION

While a complete analysis of the various titles is impossible, enough detail has been included to indicate the general nature and effect of the Louisiana Revised Statutes of 1950. Those stat-

55. La. R.S. (1950) 24:256.

utes, while not a paragon of perfection, represent a substantial improvement over the prior unorganized and confused state of the law. They represent approximately five years of hard work by a large group of Council members, reporters and advisors whose only interest was to effect some improvement in the organization of the general laws of the state. The revision should serve as a starting point from which interested groups will study the titles or chapters affecting their particular interests and will recommend necessary changes. Many of the laws introduced at the 1950 session of the legislature indicate that such studies are already being made. It may be optimistically hoped that most future legislation will be drafted in terms of the appropriate sections or chapters of the Revised Statutes, to the end that new legislation will be consciously integrated with the old.